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CITY AND COUNTY OF SAN FRANCISCO ET AL.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CLIFFORD COOK,

Plaintiff,

vs.

CITY AND COUNTY OF SAN
FRANCISCO, ANTONIO FLORES,
DON SLOAN, MARSHA ASHE, and
DOES 1-50, inclusive,

Defendants.

Case No. C 07 2569 CRB

**DEFENDANTS' NOTICE OF MOTION
AND MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Date: Feb. 22, 2008

Time: 10:00 a.m.

Place: Ctrm. 8, 19th Fl.

Date action filed:

Trial date: None set

1 TO PLAINTIFF AND HIS ATTORNEY OF RECORD:

2 PLEASE TAKE NOTICE THAT pursuant to the Court's order of October 26, 2007
 3 requesting that the City and County of San Francisco and the individual defendants (herein after
 4 collectively "the City") file a motion for partial summary judgment on plaintiff's Equal Protection
 5 claim and on Qualified Immunity, the City will and hereby does move for partial summary
 6 judgment. The hearing shall take place pursuant to court order on February 22, 2008, at 10:00 a.m.,
 7 at the United States District Court for the Northern District of California, 450 Golden Gate Ave.,
 8 San Francisco, California, Courtroom 8, on the 19th Floor.

9 The grounds for the City's motion is as follows:

- 10 1. The court should grant summary judgment to the City on plaintiff's 2nd Cause of Action under
 11 42 U.S.C. § 1983 based on Equal Protection because plaintiff cannot present admissible
 12 evidence upon which a reasonable trier of fact could conclude that the City arrested him because
 13 of his race or the race of his wife.
- 14 2. The court should grant summary judgment to the City on plaintiff's 2nd Cause of Action under
 15 42 U.S.C. Section 1983 in its entirety based on Due Process because the court previously
 16 granted the City's motion to dismiss the claim based on that ground, without leave to amend.
- 17 3. The court should dismiss the individual defendants in their entirety because (1) the individual
 18 defendants' involvement with plaintiff was related only to the criminal investigation and arrest
 19 and (2) the individual defendants have qualified immunity for those actions.
- 20 4. The court should grant summary judgment to the City on plaintiff's 2nd Cause of Action under
 21 42 U.S.C. § 1983 (*Monell*) because plaintiff cannot present an admissible evidence on which a

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1 reasonable trier of fact could conclude that the City has a policy or practice of racially
2 discriminatory arrests or that a final policy maker ratified any alleged unconstitutional action

3 Dated: January 18, 2008

DENNIS J. HERRERA

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7 MARGARET W. BAUMGARTNER
8 Deputy City Attorney

9 By: /s/ Margaret W. Baumgartner
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11 Attorneys for Defendants CITY AND
12 COUNTY OF SAN FRANCISCO et al.
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